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COMMISSION

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OFFICE OF GENERAL
COUNSEL

February 7, 2012

Anthony Herman, Esquire
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

MUR # 6533

Re: Perry Haney and Perry Haney for Congress

Dear Mr. Herman:

Pursuant to 2 USC § 437g(a)(1) and 11 CFR § 111.4, please accept this letter as a Complaint against Perry Haney ("Haney") and Perry Haney for Congress ("the Committee") for operating in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Federal Election Commission ("FEC" or "Commission") regulations, and more specifically, for violation of the testing the waters provisions set forth in 11 CFR 100.72(a) and 100.131(a).

I. Facts

Perry Haney for Congress is an authorized committee of Perry Haney, a candidate for the House of Representatives in the Colorado 6th Congressional District. Haney filed a Form 2 Statement of Candidacy with the FEC on October 27, 2011, and an amended Form 2 Statement of Candidacy on December 14, 2011. The Committee filed a Form 1 Statement of Organization with the FEC on October 27, 2011, listing the Committee's name as Perry Haney for Congress Exploratory Committee. An amended Form 1 Statement of Organization was filed on December 14, 2011, changing the name to Perry Haney for Congress.

The Committee has two websites, www.perryhaneyforcongress.com and www.sendachiropractortocongress.com. The first website features a prominent Perry Haney for U.S. Congress logo, biography of Haney, contact information, news articles and a page for contributions. The second website contains a message from Haney that states, "My name is Perry Haney - I will be the first Chiropractor ever to serve in Congress." The second website also contains a contribution page. Though it is unclear when the websites first launched, the disclaimers on both state "Paid for by Perry Haney for Congress Exploratory Committee."

The Committee's YouTube channel, <http://www.youtube.com/user/HaneyForCongress>, was created on August 19, 2011. The first video was uploaded to the YouTube channel on August 31, 2011. The August 31, 2011, video includes links to both www.perryhaneyforcongress.com and www.sendachiropractortocongress.com.

5950 SOUTH WILLOW DRIVE, SUITE 301, GREENWOOD VILLAGE, COLORADO 80111
303.758.3333 FAX 303.741.0714

Paid for by the Colorado Republican Committee.
Not authorized by any candidate or candidate's committee.
www.cologop.org

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On January 31, 2012, the Committee filed an amended year-end report with the FEC. The Committee filed an amended report on February 1, 2012. The filing reported that, as of July 19, 2011, the Committee had received \$51,000 -- a \$1,000 contribution from Perry Haney on June 6, 2011, and a \$50,000 contribution from Perry Haney on July 19, 2011.

II. Relevant Law

An individual becomes a candidate and triggers registration and reporting responsibilities under the Act when campaign activity exceeds \$5,000 in either contributions or expenditures. 2 USC § 431(2). A candidate must file a Form 2 Statement of Candidacy within 15 days of becoming a candidate. 2 USC § 432(e)(1). Within 10 days after it has been designated by the candidate, the principal campaign committee must register by filing with the FEC. 2 USC § 433(a).

The regulations permit an individual who has not decided to run for office to raise funds to "test the waters" and explore the viability of becoming a candidate. 11 CFR § 100.72, 11 CFR § 100.131. An individual solely engaging in testing the waters activities does not have to register or report as a candidate, even if the individual raises or spends more than \$5,000 on these activities. Testing the waters activities include conducting a poll, making telephone calls and traveling, but only if undertaken to determine whether an individual should become a candidate. 11 CFR § 100.72, 11 CFR § 100.131.

However, once an individual engages in campaign activity, if he or she has raised or spent more than \$5,000, the individual must register as a candidate with the FEC. Campaign activities include raising funds in excess of what could reasonably be expected to be used for exploratory activities, undertaking activities designed to amass campaign funds that would be spent after he or she becomes a candidate, or making statements that refer to the individual as a candidate. 11 CFR § 100.72. In addition, if the name of an individual's testing the waters committee indicates that the candidate has already decided to run for congress, this is also considered campaign activity. See Advisory Opinion 1981-32.

III. Legal Analysis

Perry Haney was campaigning for congress while purportedly testing the waters. On August 31, 2011, the first video was uploaded to the Haney for Congress YouTube site. This video refers to both www.perryhaneyforcongress.com, and www.sendachiropractortocongress.com. The YouTube channel name and both websites refer to Haney as a candidate. Furthermore, the Committee's original name, Perry Haney for Congress Exploratory Committee, also refers to Haney as a candidate. The testing the waters provision does not allow the Committee to refer to Haney as a candidate without triggering registration and reporting with the FEC.

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Haney also failed to register and report with the FEC in a timely manner. Since Haney was plainly referring to himself as a candidate, he was no longer testing the waters and was subject to the registration and reporting requirements of the FEC. According to the Committee's reports, the Committee crossed the \$5,000 registration and reporting threshold on July 19, 2011, when it accepted a \$50,000 contribution from Haney, bringing the Committee's total amount raised to \$51,000. At the very latest, Haney was referring to himself as a candidate by August 31, 2011. According to the Act and FEC regulations, Haney should have filed a Form 2 Statement of Candidacy 15 days after August 31, 2011, and a Form 1 Statement of Organization 10 days after that. Haney failed to file either form until October 27, 2011.

This, in addition to the references to Haney as a candidate, is a clear demonstration that Haney and the Committee violated the testing the waters provisions by actively campaigning for Federal office and, additionally, have violated the FEC's reporting requirements.

IV. Conclusion

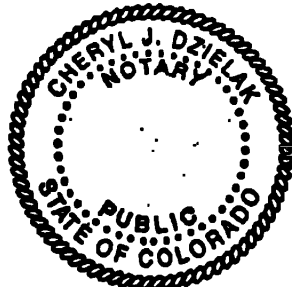
Upon information and belief, and based upon the facts relayed herein, Perry Haney and Perry Haney for Congress have violated the Federal Election Campaign Act of 1971, as amended, and Federal Election Commission Regulations. Accordingly, we respectfully request that the Commission conduct an immediate investigation into the violations outlined above and impose the maximum penalty under law.

The foregoing is correct and accurate to the best of my knowledge, information and belief.

Respectfully submitted,



Sworn to and subscribed before me this 11 day of February 2012.



My Commission Expires
January 27, 2016

A handwritten signature of the Notary Public, positioned above the words "Notary Public".

My Commission Expires:

January 27, 2016